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4 San Francisco, CA
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8 Attorney for Plaintiff
9 MARGARET EVE-LYNNE MIYASAKI

E-filing

FILED
AUG 22 2012
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

United States District Court
Northern District of California
Courthouse

MEJ

MARGARET EVE-LYNNE MIYASAKI,

Plaintiff,

vs.

KYNA TREACY, dba Kini Bikini,
kinibikini.com, kinibikini.com.au,
shopkinibikini.com,

Defendant.

No.

CV 12 4427

COMPLAINT, DEMAND FOR JURY TRIAL;
VERIFICATION; EXHIBITS "A" THROUGH "I"

COMPLAINT

1. Plaintiff is a resident of the Northern District of California, residing in San Francisco, California.

2. Defendant is a resident of Australia.

3. This court has jurisdiction over defendant because defendant has done business within the Northern District of California by offering copyright infringing items for sale on the internet

4. Prior to April 13, 2009, and beginning in 1998, plaintiff created an original work of wearable art to be reproduced on textile fabrics, which original work of art was known as "Verdant Garden." The work of art incorporates a unique crochet stitch pattern that is primarily aesthetic, and that it is separable from the functional aspects of the wearable art. Said reproduction is wholly original with plaintiff and is copyrightable subject matter under the laws of the United States.

1 5. Since 1998, the aforesaid reproduction of a work of art has been published by
2 plaintiff, and all copies of it made by plaintiff or under its authority or license, have been
3 printed, reproduced, and published in strict conformity with the provisions of the federal
4 Copyright Act of 1976, specifically 17 USC § 401, and all other laws governing copyright.

5 6. Since 1998, plaintiff has been and still is the sole owner of all right, title, and interest
6 in and to the copyright in such reproduction of the work of art.

7 7. Copies of plaintiff's copyrighted reproduction of the work of art, entitled "Verdant
8 Garden" is attached hereto as Exhibit "B", page 1 and Exhibit "C", page 2 (dress with V-shaped
9 pattern of crochet stitching) and incorporated herein by this reference.

10 8. Since prior to April 13, 2009, defendant infringed the copyright by manufacturing,
11 causing to be manufactured, distributing offering for sale and/or selling, without plaintiff's
12 consent, articles of clothing incorporating or attempting to incorporate plaintiff's unique crochet
13 stitch pattern which was substantially copied from plaintiff's copyrighted reproduction of a work
14 of art entitled "Verdant Garden." Defendant's infringing design is attached as Exhibits "D"
15 and "G", which is unmistakably copied from plaintiff's "Verdant Garden" unique crochet stitch
16 pattern design. Defendant, by its acts aforesaid, has taken advantage of the knowledge and skill
17 of plaintiff, and of the good will developed by plaintiff, and has capitalized on the market
18 created by plaintiff for its designs. By its use of unique crochet stitch patterns commercially
19 similar to plaintiff's design and color combinations, defendant has been and will be able to pass
20 off and sell its textiles as a substitute for plaintiff's wearable artworks bearing the copyrighted
21 designs. Furthermore, by copying and offering for sale its copy of the copyrighted design at the
22 very same time the plaintiff is selling the original design, defendant has created and taken
23 advantage of confusion of the design in the trade, and in the public mind, to its profit and to
24 plaintiff's damage.

25 9. On August 22, 2009, plaintiff served a demand that defendant cease and desist its
26 infringing activity. A copy of the cease and desist demand is attached as Exhibit "A" to this
27 complaint. With this demand, plaintiff served copies of Exhibits "B" through "G" attached to
28 this complaint. The cease and desist demand was quite lengthy and stated defendant's infringing

activities in detail. Because the original email version of the cease and desist demand attached as Exhibit "A" is somewhat difficult to read, plaintiff reproduces the entire cease and desist demand below:

From:

Margaret Eve-Lynne Miyasaki
2023 Folsom #6
San Francisco, CA 94110 USA

To:

Kyna Treacy
<http://www.kinibikini.com>
<http://kinibikini.com.au/>
www.shopkinibikini.com
Registrant: Kini Bikini
info@kinibikini.com
kyna@kinibikini.com
Mobile: +61 410 53 9903

RE: CEASE AND DESIST "Kini Bikini Miami Knit Dress" and "Miami Knit Dress"
by Kyna Treacy

Dear Ms. Treacy;

You have made an unauthorized use of my copyrighted work, wearable art /crochet dress entitled "Verdant Garden"(hereinafter the "WORK") in the preparation of a work derived therefrom; and are reproducing and authorizing it for sale on your website at:

www.kinibikini.com, <http://kinibikini.com.au/> and
www.shopkinibikini.com,

specifically, at the following pages:

1) <http://www.kinibikini.com>

2)
<http://www.kinibikini.com/collection/fashion-show/miami-knit-dress-in-white?mode=minimal>

3)<http://www.kinibikini.com/collection/summer-0809/miami-knit-dress-white?mode=minimal>

4)
<http://www.kinibikini.com.au/collection/fashion-show/miami-knit-dress-in-white?mode=minimal>

5)
http://shopkinibikini.com/cart.php?target=product&product_id=1

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3 2150 Folsom #7A
4 San Francisco, CA
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6 Tel. (415) 702-7260
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8 Attorney for *Plaintiff*
9 MARGARET EVE-LYNNE MIYASAKI

10 United States District Court
11 Northern District of California
12 _____ Courthouse

13 MARGARET EVE-LYNNE MIYASAKI,

14 *Plaintiff,*

15 vs.

16 KYNA TREACY, dba Kini Bikini,
17 kinibikini.com, kinibikini.com.au,
18 shopkinibikini.com,

19 *Defendant.*

No.

COMPLAINT, DEMAND FOR JURY TRIAL;
VERIFICATION; EXHIBITS "A" THROUGH "I"

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25 the Northern District of California by offering copyright infringing items for sale on the internet

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28 "Verdant Garden." The work of art incorporates a unique crochet stitch pattern that is primarily
aesthetic, and that it is separable from the functional aspects of the wearable art. Said
reproduction is wholly original with plaintiff and is copyrightable subject matter under the laws
of the United States.

1 5. Since 1998, the aforesaid reproduction of a work of art has been published by
2 plaintiff, and all copies of it made by plaintiff or under its authority or license, have been
3 printed, reproduced, and published in strict conformity with the provisions of the federal
4 Copyright Act of 1976, specifically 17 USC § 401, and all other laws governing copyright.

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21 designs. Furthermore, by copying and offering for sale its copy of the copyrighted design at the
22 very same time the plaintiff is selling the original design, defendant has created and taken
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Margaret Eve-Lynne Miyasaki
2023 Folsom #6
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To:

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Registrant: Kini Bikini
info@kinibikini.com
kyna@kinibikini.com
Mobile: +61 410 53 9903

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by Kyna Treacy

Dear Ms. Treacy;

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www.kinibikini.com, <http://kinibikini.com.au/> and
www.shopkinibikini.com,

specifically, at the following pages:

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2)
<http://www.kinibikini.com/collection/fashion-show/miami-knit-dress-in-white?mode=minimal>

3)<http://www.kinibikini.com/collection/summer-0809/miami-knit-dress-white?mode=minimal>

4)
<http://www.kinibikini.com.au/collection/fashion-show/miami-knit-dress-in-white?mode=minimal>

5)
http://shopkinibikini.com/cart.php?target=product&product_id=1

6140&substring=Miami

6)
http://shopkinibikini.com/cart.php%3Ftarget%3Dcategory%26category_id%3D105&usg=__ZRpAwEE03Mslw_SwRCoT9PmpNrU=&h=100&w=67&sz=8&hl=en&start=5&sig2=zoQKak4339Qv0AATgA56RA&um=1&tbnid=JGmmBI3dSFtG6M:&tbnh=82&tbnw=55&prev=/images%3Fq%3D%2522Miami%2Bknit%2Bdress%2522%26hl%3Den%26safe%3Doff%26client%3Dfirefox-a%26rls%3Dorg.mozilla:en-US:official%26um%3D1&ei=b_ZxSt_4A4OwtgOwu43MCA

7)
http://shopkinibikini.com/cart.php%3Ftarget%3Dcategory%26category_id%3D105&usg=__ZRpAwEE03Mslw_SwRCoT9PmpNrU=&h=100&w=67&sz=8&hl=en&start=

and sold on the sites of your distributor, www.clothingstoreonline.com.au, specifically, at the following pages:

1)
<http://www.clothingstoreonline.com.au/Miami-knit-dress-p-17403.html>

2) <https://www.clothingstoreonline.com.au/Dresses-p-1-c-315.html>

3) <http://www.clothingstoreonline.com.au/Dresses-p-1-c-315.html&xid=3abbfd0e9059992cce3134ce1de45fa1>

and sold on the sites of your other distributor, www.clothingstoreonline.com.au, specifically, at the following pages:

1) <http://www.shopwiki.com.au>

2) <http://www.shopwiki.com.au/Donna+Karan+knit+dress>

3) http://www.shopwiki.com.au/_Miami+knit+dress

This item is a copy of my original wearable art /crochet dress, entitled "Verdant Garden" displayed on the following pages:

1) http://www.eve-lynnne.com/RESORT_WEAR.html

2)
<http://archives.starbulletin.com/2000/06/01/features/story2.html>

and formerly shown at:

1) http://www.hawaiiandelights.com/RESORT_WEAR.html

My original WORK is presently offered for sale by my business, Margaret Eve-Lynne Miyasaki, "Eve-Lynne Miyasaki", dba Hawaiian Delights and Hawaiian Delights Crochet Bikinis, <http://www.eve-lynnne.com>, and formerly known as <http://www.hawaiiandelights.com>. I have reserved all rights in the WORK, first offered for sale as of 1998 and first published on the Internet at

1 http://www.hawaiiandelights.com as of 2000, and copyrighted therein. The
2 ownership and development of the WORK has been under my sole control previous
to those dates and at all times have been my original wearable art.

3 Your copy / copies are essentially identical to the WORK and clearly used the WORK
4 as its basis. The WORK is protected under the Copyright Act and cannot be
5 reproduced without my prior authorization. As you neither asked for nor received
6 permission to use the WORK as the basis, nor to make or sell copies, you have
willfully infringed my rights under 17 U.S.C. Section 101 et seq. Such authorization,
if it had been sought, would not have been given.

7 Furthermore, you are intentionally trading on the goodwill and reputation of
8 Hawaiian Delights, Hawaiian Delights Crochet Bikinis and the author of the WORK,
"Eve-Lynne Miyasaki" and Margaret Eve-Lynne Miyasaki, by using copies that are
confusingly similar to the WORK.

9 It is clear that your use of the WORK is intended to (and actually does) confuse and
10 misdirect consumers by holding out your copies as being an original that you have
the authority to make and sell when it is not the case. This deliberate use of the
WORK is a scheme to defraud consumers.

11 Furthermore, due to the inferior quality, workmanship, and price of your copy/copies,
12 your offering such copy/copies constitutes a trade disparagement of the WORK, my
original wearable art /crochet dress.

13 As well as having the appropriate legal copyright notices on the both of my websites,
14 you were given personal notice of copyright infringement by email from me to you,
dated April 13, 2009.

15 On April 13, 2009, I sent you an email giving you notice of copyright infringement
16 by you of the WORK, because of your production and sale of copies of the WORK,
of which copies you entitled "Kini Bikini Miami knit dress", or simply "Miami knit
17 dress".

18 April 13, 2009, you replied to me by email acknowledging that the Kini Bikini Miami
19 knit dress is essentially identical to the WORK and a copy of the WORK,

20 "Thank you for alerting me that this is your design, last year I did
21 various crochet pieces for sale for my collection, this season my entire
collection is lycra."

22 (Excerpts email from Kyna Treacy, dated April 13, 2009, 6:11 pm)

23 and stated you did not realize that the WORK was copyrighted,

24 "I bought it wholesale from a company in China zhangqingbao and
25 then I noticed all these other american sites selling the same thing but
26 with tacky glamour models in the pics and was not tasteful. I am no
longer buying out of China I now get my lycra made in Australia and
never intended to copy your design- I wish I knew about your brand
earlier and I wouldn't have bought or sold any."

27 (Excerpts email from Kyna Treacy, dated April 13, 2009, 6:11 pm)

1 "I would ask that you do not take legal action against me as I have no
2 money after my first year of trading anyhow I have only just broken
3 even and no knowledge that what I was buying was a rip off of your
4 designs.."

(Excerpts email from Kyna Treacy, dated April 13, 2009, 6:11 pm)

5 "I went to China to buy the stock from supplier Zhangqingbiao, they
6 do not have a website or email, it was in China on a trip there the
7 year before last, they had various crochet styles, not like or other ones
8 only the dress now I see is the same as yours." (Excerpts email from
9 Kyna Treacy, dated April 14, 2009, 7:45pm)

and you did not intend to sell it anymore, now that you realize the WORK was
copyrighted.

9 "I am not doing the Miami knit dress anymore- you have my word- the
10 pics are still on my website but its last season stock for me." (Excerpts
11 email from Kyna Treacy, dated April 13, 2009, 6:11 pm)

11 "You have my word that no miami knit dress will ever be sold, I have
12 no stock left anyway. Clothing store online know that it was last
13 season stock and I have none in stock to be made. Plus I only sold
14 that style to Aussie customers last year."

(Excerpts email from Kyna Treacy, dated April 13, 2009, 6:11 pm)

14 You stated that you would stop selling the Kini Bikini Miami knit dress because you
15 were informed by me and you believed that the Miami knit dress is a copy of the
16 WORK. You stated that copies of the WORK won't be made available by you again.

17 However, since April 13, 2009, you have continued to this date to sell copies of the
18 WORK, prices ranging from \$92.00 to \$200, have photos of the WORK on your
19 website and hold it out to the public at large as being a "design" of yours. Further,
20 you have continued to make it available for distribution and sale through various
21 distributors.

22 Furthermore, your April 13, 2009 email to me that you'd just sold the Miami knit
23 dress after noticing it in a Chinese supplier's warehouse is not what you told the
24 Sunshine Coast Daily Online in your December 2008 interview, "Kyna's Knits." You
25 told them that you had you had originally approached a Chinese factory on your
26 own with an order for 60 items and that your orders to China "are now in the
27 thousands, rather than dozens."

<http://www.thedaily.com.au/news/2008/dec/08/kyna-treacy-crocheted-bikini/>

24 Your activities are unlawful and constitute unfair competition, intentional copyright
25 infringement, copyright dilution, false action of origin, trade disparagement and
26 fraud. Furthermore, because you operate an interactive website in which customers
27 can buy items directly from your company by filling out an online form, you can be
28 sued anywhere that your website appears. If I have to file a lawsuit, it will be in the
United States court in San Francisco, California.

I, therefore, demand that you immediately cease and desist from reproducing and
selling your copies of the WORK, and that you deliver to me all unused,

undistributed copies of the WORK, or destroy such copies immediately. Take down or cause to have taken down any and all photos of copies of the WORK on your sites, those of your distributors, and other sites where you have caused photos of copies of the WORK to be displayed. Submit a formal written retraction of your false statements regarding the origin of the copies of the WORK to the newspaper in which they were published, and on your websites and distributors websites where these statement appears. Your false statements appeared in these newspaper articles, which are that you're knock-off of Verdant Garden crochet dress, namely your Miami knit dress, is your original design:

1) The Sunshine Coast Daily

APN News & Media Ltd.

Article dated December 8, 2008

Source:

<http://www.thedaily.com.au/news/2008/dec/08/kyna-treacy-crocheted-bikini/>

Article: Kyna's kinis

This article, "Kyna's kinis", in which you claim to be the designer of all garments in the kinibikini 2008 range, shown at <http://www.thedaily.com.au/news/2008/dec/08/kyna-treacy-crocheted-bikini/> links to a photo gallery at <http://www.thedaily.com.au/news/2008/dec/08/kyna-treacy-crocheted-bikini/>, which shows a photo of your Verdant Garden dress knock-off entitled, "Miami knit dress white- Kini Bikini. Photo: Contributed" as #3 in the gallery.

<http://www.thedaily.com.au/news/2008/dec/08/kyna-treacy-crocheted-bikini/>

"Kini Bikini"

Photo title: "Miami knit dress white- Kini Bikini. Photo: Contributed" Sunshine Coast Daily, APN News & Media Ltd.

This webpage links to other webpages,

<http://www.thedaily.com.au/photos/galleries/kini-bikini-models/7535/> and

<http://www.thedaily.com.au/photos/galleries/kini-bikini-models/>, which are showing photos of your Verdant Garden dress knock-off entitled, "Miami knit dress white- Kini Bikini. Photo: Contributed":

<http://www.thedaily.com.au/photos/galleries/kini-bikini-models/7535/>

"Kini Bikini"

Photo title: "Miami knit dress white- Kini Bikini. Photo: Contributed"

<http://www.thedaily.com.au/photos/galleries/kini-bikini-models/>

"Kini Bikini"

Photo title: "Miami knit dress white- Kini Bikini. Photo: Contributed"

This article, "Kyna's kinis", reports that you made first contacted with a Chinese crochet factory and placed orders for crochet garments.

"Kyna had always liked the unique one piece style adored in the 1960s and 1970s and believed in her designs enough to contact a

Chinese factory that could make them, although she had to take a chance with her personal savings to meet a minimum order of 60.

Her orders to China are now in the thousands, rather than dozens."

2) The Sunshine Coast Daily Online

APN News & Media Ltd.

Article dated December 9, 2008

Source:

<http://www.finda.com.au/story/2008/12/09/kynas-kinis-hit-hollywood-shelves/>

Article: Kyna's kinis hit Hollywood shelves

This article, "Kyna's kinis hit Hollywood shelves", in which you claim to be the designer of all garments in the kinibikini 2008 range, shown at the webpage, <http://www.finda.com.au/story/2008/12/09/kynas-kinis-hit-hollywood-shelves/>, has a link to the same photo gallery as the "Kyna's Kinis" article:

<http://www.thedaily.com.au/photos/galleries/kini-bikini-models/7533/>, with a frame photo gallery", which includes a photo of your Verdant Garden dress knock-off entitled: "Miami knit dress white-Kini Bikini. Photo: Contributed" as photo number 3

And the webpage,

<http://www.thedaily.com.au/photos/galleries/kini-bikini-models/7533/>, links to a different webpage, <http://www.thedaily.com.au/news/2008/dec/08/kyna-treacy-crocheted-bikini/>, showing a photo of your verdant Garden dress knock-off entitled: "Miami knit dress white- Kini Bikini. Photo: Contributed".

This article, "Kyna's kinis hit Hollywood shelves", reports that you began ordering crochet garments, including the WORK, in quantities of dozens, but are now ordering crochet garments in quantities of thousands, from the crochet factory, and further you intend to place more orders for crochet garments:

"Her orders to China are now in the thousands, rather than dozens.

"It's blown me away because I didn't intend for it to be so popular or take off in the way it has," she said.

"I knew I liked them but I didn't know if everyone else would because crochet hasn't been around for quite a while and no one else was really doing it.

"When I turned 25 I started saving to put towards my first range because modelling is a short lived career."

3) Sunshine Coast Daily (Maroochydore, Australia)

APN Newspapers Pty Ltd.

Article dated: January 2, 2009

Source: <http://www.highbeam.com/doc/1G1-195950666.html>

Article: {kini a new twist on } {old fave};

The crochet bikini is back, thanks to the creative talents of Kyna Treacy. Her updated version of the '60s icon is winning a new legion of fans, as Hayley Nissen reveals.

""I found some patterns, updated them, added cotton elastane so you can swim in them and introduced new shapes.""

"Kyna has also branched out into crochet dresses, tops and cover-ups to make sure she keeps on top of the market."

Citation:

"{kini a new twist on } {old fave}; The crochet bikini is back, thanks to the creative talents of Kyna Treacy. Her updated version of the '60s icon is winning a new legion of fans, as Hayley Nissen reveals." Sunshine Coast Daily (Maroochydore, Australia). APN Newspapers Pty Ltd. 2009. Retrieved August 19, 2009 from HighBeam Research: <http://www.highbeam.com/doc/1G1-195950666.html>

In this article, "{kini a new twist on } {old fave}; The crochet bikini is back, thanks to the creative talents of Kyna Treacy. Her updated version of the '60s icon is winning a new legion of fans, as Hayley Nissen reveals.", in which you claim to be the designer of all garments in the kinibikini 2008 range, has a link to <http://www.kinibikini.com> and quotes from you stating that you actively researched and used existing crochet patterns belonging to other than yourself, that you revised these existing crochet patterns, took your revised crochet patterns to China and had copies made of them in amounts up to and over 1,000. Which is very different from what you told me after you received my notice of copyright infringement regarding your knock-off of the WORK, sent to you on May 13, 2009.

Again, let me show you an excerpt from your email reply sent to me on May 13, 2009:

Thank you for alerting me that this is your design, last year I did various crochet pieces for sale for my collection, this season my entire collection is lycra. I am not doing the Miami knit dress anymore- you have my word- the pics are still on my website but its last season stock for me. I bought it wholesale from a company in China zhangqingbao and then I noticed all these other american sites selling the same thing but with tacky glamour models in the pics and was not tasteful. I am no longer buying out of China I now get my lycra made in Australia and never intended to copy your design- I wish I knew about your brand earlier and I wouldn't have bought or sold any."

This email reply, which you sent me less than six months after your statements to the media were internationally published via the internet, shows that your conduct towards me is and always was in bad faith. Even to this very day you display your knock-offs of the WORK on your websites, <http://www.kinibikini.com> and <http://shopkinibikini.com/>, and still make the same false claims about the origin of the Miami knit dress, which is as a knock-off of the WORK.

This activity is actionable under federal law and causes you to be liable to Hawaiian

Delights, Hawaiian Delights Crochet Bikinis, <http://www.eve-lynn.com>, formerly known as <http://www.hawaiiandelights>, and the author of the WORK, "Eve-Lynne Miyasaki" and Margaret Eve-Lynne Miyasaki, in every country in which you advertise such products for sale. Please note that I am also sending a copy of this letter to your internet service provider.

This wholesale misappropriation of my copyright works has not been authorized by me and is an infringement of my exclusive rights as copyright owner. Because the infringement is flagrant, I believe that this is a very serious matter. I demand that you cease and desist from disseminating the material posted at the referenced web site immediately, including any hyperlinks to other locations where the information may available from all web sites and servers under your control.

In the circumstances I also demand that you immediately:

- 1) remove all aforesaid infringing material from your Website(s), and notify me in writing that you have done so;
- 2) undertake in writing to desist from using any of my copyrighted work in future without prior written authority from me.

I await to hear from you by no later than close of business on AUGUST 30, 2009, failing which equivalent letters will be sent to:

- * Your Web Host
- * Your Domain Registrar
- * Legal Support at Google and other Search Engines.

This is written without prejudice to my rights, all of which are hereby fully and expressly reserved.

Thank you for your anticipated cooperation. I can be reached at (415) 846-5913 should you have any questions.

Sincerely,

Margaret Eve-Lynne Miyasaki
Hawaiian Delights Crochet Bikinis.
<http://www.eve-lynn.com> (formerly <http://www.hawaiiandelights.com>)

10. The cease and desist demand corrected defendant's addresses and details contained in an earlier cease and desist demand that had been emailed on August 20, 2012 defendant, as shown in Exhibit "A", attached to this complaint. The contents of plaintiff's cease and desist demand are incorporated into this complaint by reference.

11. Despite plaintiff's cease and desist demand of August 22, 2009, defendant has continued to engage in her unlawful infringing activities as described herein, up until the present

1 day. See Exhibit "I" attached to this complaint, depicting the same infringing design, now being
 2 marketed as "Cancun dress" as of the summer of 2011.

3 12. By doing so, defendant has violated the federal Copyright Act of 1976, specifically
 4 17 USC § 401. The aforesaid acts of defendant, in publishing, distributing, manufacturing,
 5 causing to be manufactured, offering for sale, and/or selling copies of plaintiffs copyrighted
 6 design and unique crochet stitch pattern embedded into wearable articles of the very same type
 7 as those sold by plaintiff bearing the copyrighted design, constitutes inequitable conduct, unfair
 8 trade practices, and unfair competition, in that defendant has thereby misappropriated plaintiffs
 9 good will and the benefits of plaintiffs skill and expenditures in the development and promotion
 10 of the distinctive design and color combinations.

11 13. As a direct and proximate result of defendant's unlawful infringing activities, plaintiff
 12 has lost profits and been irreparably injured in that plaintiff's market has been greatly reduced
 13 and such injury will continue so long as defendant continues to market the copied design.

14 WHEREFORE, plaintiff requests that:

15 1. Defendant, its agents, employees, and servants, be enjoined pendente lite and
 16 permanently from infringing plaintiffs copyright in any manner, and from publishing,
 17 distributing, manufacturing, causing to be manufactured, selling, marketing, or otherwise
 18 disposing of any textiles imprinted with the design copied from plaintiffs copyrighted
 19 reproduction of a work of art.

20 2. Defendant be required to pay to plaintiff damages of \$50,000 or in such greater
 21 amount as shall be proven at trial or hearing, which plaintiff has sustained in consequence of
 22 defendant's aforesaid copyright infringement and unfair trade practices and unfair competition,
 23 and to account for:

24 a) All gains, profits, and advantages derived by defendant from its infringement
 25 of plaintiffs copyright or such damages as the court deems appropriate within the
 provisions of the copyright statutes; and

26 (b) All gains, profits, and advantages derived by defendant through its unfair trade
 27 practices and unfair competition.

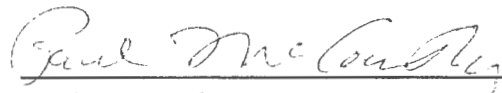
28 3. Defendant be required to deliver up to be impounded during the pendency of this

1 action all copies of the aforesaid reproduction of plaintiff's copyrighted reproduction of a work
2 of art whether in its possession or under its control, and to deliver up for destruction all
3 infringing copies and all rollers, screens, plates, molds, and other matter for making such
4 infringing copies.

5 4. Defendant pay to plaintiff the cost of this action and reasonable attorney fees to be
6 allowed to plaintiff by the court.

7 5. Plaintiff have such other and further relief as the court may deem just.

8 Dated: San Francisco, California, Tuesday, August 21, 2012.

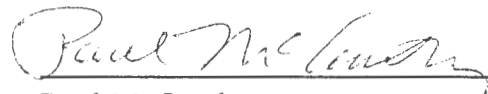
9
10 

11 Paul McCarthy
12 Attorney for Plaintiff MARGARET EVE-LYNNE
MIYASAKI

13 DEMAND FOR JURY TRIAL

14 Plaintiff demands a jury trial on all issues so triable.

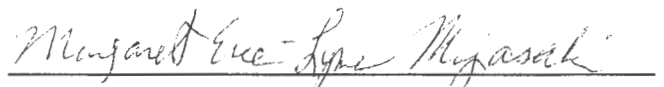
15 Dated: San Francisco, California, Tuesday, August 21, 2012.

16
17 

18 Paul McCarthy
19 Attorney for Plaintiff MARGARET EVE-LYNNE
MIYASAKI

20 VERIFICATION

21 I declare under penalty of perjury that the facts set forth in this complaint are true and
22 correct based on my personal knowledge and that the exhibits attached to this complaint are true
23 and correct copies of the documents that they purport to be. Executed in San Francisco,
24 California, on Tuesday, August 21, 2012.

25
26 

27 Margaret Eve-Lynne Miyasaki, Plaintiff
28

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Compose Message Delete Reply Forward Print

Inbox 1026

Conversations 345

Drafts 345

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Spam 888

Trash 51

Folders

- 01-2011 Paul Gordon
- 01-2012 GOGO DAN...
- 02-2012 YAMIRAH G...
- 03-2012 GESTALT
- 062009 dressers
- 062009 models 1
- 062009 photographers 1
- 2008 BIRTHDAY BASH ... 40
- 2008 Green Lantern br...
- 2008 Landlord-Tenant
- 2008 SIII Con 10-05 291
- 2009 karaoke buy 17
- 2009 Landlord-Tenant
- 2009 MEETUP GUEST ... 9
- 2009 mybikinibrazil v ... 5
- 2009 PROMO 1st Quarter 18
- 2009 SIII Con 6

Cease and Desist / "Miami Knit Dress" / "Verdant Garden" 8 Hide Details

FROM: Eve Miyasaki Saturday, August 22, 2009 7:47 PM

TO: info@kinibikini.com

CC: kyna@kinibikini.com

From:

Margaret Eve-Lynne Miyasaki
2023 Folsom #6
San Francisco, CA 94110 USA

To:

Kyna Treacy
http://www.kinibikini.com
http://kinibikini.com.au/
www.shopkinibikini.com
Registrant: Kini Bikini
info@kinibikini.com
kyna@kinibikini.com
Mobile: +61 410 53 9903

RE: CEASE AND DESIST "Kini Bikini Miami Knit Dress" and "Miami Knit Dress" by Kyna Treacy

Dear Ms. Treacy:

You have made an unauthorized use of my copyrighted work, wearable art /crochet dress entitled "Verdant Garden"(hereinafter the "WORK") in the preparation of a work derived therefrom; and are reproducing and authorizing it for sale on your website at

www.kinibikini.com, http://kinibikini.com.au/ and www.shopkinibikini.com,

specifically, at the following pages:

1) http://www.kinibikini.com

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EXHIBIT A

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Delete Reply Forward Print

Cease and Desist / "Miami Knit Dress" / "Verdant Garden" 8 Hide Details

FROM: Eye Miyasaki Saturday, August 22, 2009 7:47 PM

TO: info@kinibikini.com

CC: kyna@kinibikini.com

From:

Margaret Eve-Lynne Miyasaki
2023 Folsom #6
San Francisco, CA 94110 USA

To:

Kyna Treacy
http://www.kinibikini.com
http://kinibikini.com.au/
www.shopkinibikini.com
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info@kinibikini.com
kyna@kinibikini.com
Mobile: +61 410 53 9903

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specifically, at the following pages:

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and formerly shown at:

1) http://www.hawaiiandelights.com/RESORT_WEAR.html

My original WORK is presently offered for sale by my business, Margaret Eve-Lynne Miyasaki, "Eve-Lynne Miyasaki", dba Hawaiian Delights and Hawaiian Delights Crochet Bikinis, <http://www.eve-lynn.com>, and formerly known as <http://www.hawaiiandelights.com>. I have reserved all rights in the WORK, first offered for sale as of 1998 and first published on the Internet at <http://www.hawaiiandelights.com> as of 2000, and copyrighted therein. The ownership and development of the WORK has been under my sole control previous to those dates and at all times have been my original wearable art.

Your copy / copies are essentially identical to the WORK and clearly used the WORK as its basis. The WORK is protected under the Copyright Act and cannot be reproduced without my prior authorization. As you neither asked for nor received permission to use the WORK as the basis, nor to make or sell copies, you have willfully infringed my rights under 17 U.S.C. Section 101 et seq. Such authorization, if it had been sought, would not have been given.

Furthermore, you are intentionally trading on the goodwill and reputation of Hawaiian Delights, Hawaiian Delights Crochet Bikinis and the author of the WORK, "Eve-Lynne Miyasaki" and Margaret Eve-Lynne Miyasaki, by using copies that are confusingly similar to the WORK.

It is clear that your use of the WORK is intended to (and actually does) confuse and misdirect consumers by holding out your copies as being an original that you have the authority to make and sell when it is not the case. This deliberate use of the WORK is a scheme to defraud consumers.

Furthermore, due to the inferior quality, workmanship, and price of your copy/copies, your offering such copy/copies constitutes a trade disparagement of the WORK, my original wearable art /crochet dress.

As well as having the appropriate legal copyright notices on the both of my websites, you were given personal notice of copyright infringement by email from me to you, dated April 13, 2009.

On April 13, 2009, I sent you an email giving you notice of copyright infringement by you of the WORK, because of your production and sale of copies of the WORK, of which copies you entitled "Kini Bikini Miami knit dress", or simply "Miami knit dress".

April 13, 2009, you replied to me by email acknowledging that the Kini Bikini Miami knit dress is essentially identical to the WORK and a copy of the WORK,

"Thank you for alerting me that this is your design, last year I did various crochet pieces for sale for my collection, this season my entire collection is lycra."

(Excerpts email from Kyna Treacy, dated April 13, 2009, 6:11pm)

and stated you did not realize that the WORK was copyrighted.

"I bought it wholesale from a company in China zhangqingbao and then I noticed all these other american sites selling the same thing but with tacky glamour models in the pics and was not tasteful. I am no longer buying out of China I now get my lycra made in Australia and never intended to copy your design- I wish I

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and stated you did not realize that the WORK was copyrighted,

"I bought it wholesale from a company in China zhangqingbao and then I noticed all these other american sites selling the same thing but with tacky glamour models in the pics and was not tasteful. I am no longer buying out of China I now get my lycra made in Australia and never intended to copy your design- I wish I knew about your brand earlier and I wouldn't have bought or sold any." (Excerpts email from Kyna Treacy, dated April 13, 2009, 6:11pm)

"I would ask that you do not take legal action against me as I have no money after my first year of trading anyhow I have only just broken even and no knowledge that what I was buying was a rip off of your designs..." (Excerpts email from Kyna Treacy, dated April 13, 2009, 6:11pm)

"I went to China to buy the stock from supplier Zhangqingbiao, they do not have a website or email, it was in China on a trip there the year before last, they had various crochet styles, not like or other ones only the dress now I see is the same as yours." (Excerpts email from Kyna Treacy, dated April 14, 2009, 7:45pm)

and you did not intend to sell it anymore, now that you realize the WORK was copyrighted.

"I am not doing the Miami knit dress anymore- you have my word- the pics are still on my website but its last season stock for me." (Excerpts email from Kyna Treacy, dated April 13, 2009, 6:11pm)

"You have my word that no miami knit dress will ever be sold, I have no stock left anyway. Clothing store online know that it was last season stock and I have none in stock to be made. Plus I only sold that style to Aussie customers last year."

(Excerpts email from Kyna Treacy, dated April 13, 2009, 6:11pm)

You stated that you would stop selling the Kini Bikini Miami knit dress because you were informed by me and you believed that the Miami knit dress is a copy of the WORK. You stated that copies of the WORK won't be made available by you again.

However, since April 13, 2009, you have continued to this date to sell copies of the WORK, prices ranging from \$92.00 to \$200, have photos of the WORK on your website and hold it out to the public at large as being a "design" of yours. Further, you have continued to make it available for distribution and sale through various distributors.

Furthermore, your April 13, 2009 email to me that you'd just sold the Miami knit dress after noticing it in a Chinese supplier's warehouse is not what you told the Sunshine Coast Daily Online in your December 2008 interview, "Kyna's Knits." You told them that you had originally approached a Chinese factory on your own with an order for 60 items and that your orders to China "are now in the thousands, rather than dozens."

<http://www.thedaily.com.au/news/2008/dec/08/kyna-treacy-crocheted-bikini/>

Your activities are unlawful and constitute unfair competition, intentional copyright infringement, copyright dilution, false action of origin, trade disparagement and fraud. Furthermore, because you operate an interactive website in which customers can buy items directly from your company by filling out an online form, you can be sued anywhere that your website appears. If I have to file a lawsuit, it will be in the United States court in San Francisco, California.

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United States Court in San Francisco, California.

I, therefore, demand that you immediately cease and desist from reproducing and selling your copies of the WORK, and that you deliver to me all unused, undistributed copies of the WORK, or destroy such copies immediately. Take down or cause to have taken down any and all photos of copies of the WORK on your sites, those of your distributors, and other sites where you have caused photos of copies of the WORK to be displayed. Submit a formal written retraction of your false statements regarding the origin of the copies of the WORK to the newspaper in which they were published, and on your websites and distributors websites where these statement appears. Your false statements appeared in these newspaper articles, which are that you're knock-off of Verdant Garden crochet dress, namely your Miami knit dress, is your original design:

1) The Sunshine Coast Daily
APN News & Media Ltd.
Article dated December 8, 2008
Source: <http://www.thedaily.com.au/news/2008/dec/08/kyna-treacy-crocheted-bikini/>

Article: Kyna's kinis

This article, "Kyna's kinis", in which you claim to be the designer of all garments in the kinibikini 2008 range, shown at <http://www.thedaily.com.au/news/2008/dec/08/kyna-treacy-crocheted-bikini/> links to a photo gallery at <http://www.thedaily.com.au/photos/galleries/kinibikini-models/7535/>, which shows a photo of your Verdant Garden dress knock-off entitled, "Miami knit dress white- Kini Bikini. Photo: Contributed" as #3 in the gallery.

<http://www.thedaily.com.au/photos/galleries/kinibikini-models/7535/>
"Kini Bikini"
Photo title: "Miami knit dress white- Kini Bikini. Photo: Contributed"
Sunshine Coast Daily, APN News & Media Ltd.

This webpage links to other webpages, <http://www.thedaily.com.au/photos/galleries/kinibikini-models/7535/> and <http://www.thedaily.com.au/photos/galleries/kinibikini-models/>, which are showing photos of your Verdant Garden dress knock-off entitled, "Miami knit dress white- Kini Bikini. Photo: Contributed":

<http://www.thedaily.com.au/photos/galleries/kinibikini-models/7535/>
"Kini Bikini"
Photo title: "Miami knit dress white- Kini Bikini. Photo: Contributed"

<http://www.thedaily.com.au/photos/galleries/kinibikini-models/>
"Kini Bikini"
Photo title: "Miami knit dress white- Kini Bikini. Photo: Contributed"

This article, "Kyna's kinis", reports that you made first contacted with a Chinese crochet factory and placed orders for crochel garments.

"Kyna had always liked the unique one piece style adored in the 1960s and 1970s and believed in her designs enough to contact a Chinese factory that could make them, although she had to take a chance with her personal savings to meet a minimum order of 60.

Her orders to China are now in the thousands, rather than dozens."

2) The Sunshine Coast Daily Online

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Her orders to China are now in the thousands, rather than dozens."

2) The Sunshine Coast Daily Online
APN News & Media Ltd.
Article dated December 9, 2008
Source: <http://www.finda.com.au/story/2008/12/09/kynas-kinis-hit-hollywood-shelves/>

Article: Kyna's kinis hit Hollywood shelves

This article, "Kyna's kinis hit Hollywood shelves", in which you claim to be the designer of all garments in the kinibikini 2008 range, shown at the webpage, <http://www.finda.com.au/story/2008/12/09/kynas-kinis-hit-hollywood-shelves/>, has a link to the same photo gallery as the "Kyna's Kinis" article: <http://www.thedaily.com.au/photos/galleries/kini-bikini-models/7533/>, with a frame photo gallery", which includes a photo of your Verdant Garden dress knock-off entitled: "Miami knit dress white- Kini Bikini. Photo: Contributed" as photo number 3

And the webpage, <http://www.thedaily.com.au/photos/galleries/kini-bikini-models/7533/>, links to a different webpage, <http://www.thedaily.com.au/news/2008/dec/08/kyna-treacy-crocheted-bikini/>, showing a photo of your verdant Garden dress knock-off entitled: "Miami knit dress white- Kini Bikini. Photo: Contributed".

This article, "Kyna's kinis hit Hollywood shelves", reports that you began ordering crochet garments, including the WORK, in quantities of dozens, but are now ordering crochet garments in quantities of thousands, from the crochet factory, and further you intend to place more orders for crochet garments:

"Her orders to China are now in the thousands, rather than dozens.

"It's blown me away because I didn't intend for it to be so popular or take off in the way it has," she said.

"I knew I liked them but I didn't know if everyone else would because crochet hasn't been around for quite a while and no one else was really doing it.

"When I turned 25 I started saving to put towards my first range because modelling is a short lived career."

3) Sunshine Coast Daily (Maroochydore, Australia)
APN Newspapers Pty Ltd.
Article dated: January 2, 2009
Source: <http://www.highbeam.com/doc/1G1-195950666.html>

Article: {kini a new twist on } {old fave}: The crochet bikini is back, thanks to the creative talents of Kyna Treacy. Her updated version of the '60s icon is winning a new legion of fans, as Hayley Nissen reveals.

"I found some patterns, updated them, added cotton elastane so you can swim in them and introduced new shapes."

"Kyna has also branched out into crochet dresses, tops and cover-ups to make sure she keeps on top of the market."

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"Kyna has also branched out into crochet dresses, tops and cover-ups to make sure she keeps on top of the market."

Citation:

"(kini a new twist on) {old fave}; The crochet bikini is back, thanks to the creative talents of Kyna Treacy. Her updated version of the '60s icon is winning a new legion of fans, as Hayley Nissen reveals." Sunshine Coast Daily (Maroochydore, Australia). APN Newspapers Pty Ltd. 2009. Retrieved August 19, 2009 from HighBeam Research: <http://www.highbeam.com/doc/1G1-195950666.html>

In this article, "(kini a new twist on) {old fave}; The crochet bikini is back, thanks to the creative talents of Kyna Treacy. Her updated version of the '60s icon is winning a new legion of fans, as Hayley Nissen reveals.", in which you claim to be the designer of all garments in the kinibikini 2008 range, has a link to <http://www.kinibikini.com> and quotes from you stating that you actively researched and used existing crochet patterns belonging to other than yourself, that you revised these existing crochet patterns, took your revised crochet patterns to China and had copies made of them in amounts up to and over 1,000. Which is very different from what you told me after you received my notice of copyright infringement regarding your knock-off of the WORK, sent to you on May 13, 2009. Again, let me show you an excerpt from your email reply sent to me on May 13, 2009:

Thank you for alerting me that this is your design, last year I did various crochet pieces for sale for my collection, this season my entire collection is lycra. I am not doing the Miami knit dress anymore- you have my word- the pics are still on my website but its last season stock for me. I bought it wholesale from a company in China zhangqingbao and then I noticed all these other american sites selling the same thing but with tacky glamour models in the pics and was not tasteful. I am no longer buying out of China I now get my lycra made in Australia and never intended to copy your design- I wish I knew about your brand earlier and I wouldn't have bought or sold any."

This email reply, which you sent me less than six months after your statements to the media were internationally published via the internet, shows that your conduct towards me is and always was in bad faith. Even to this very day you display your knock-offs of the WORK on your websites, <http://www.kinibikini.com> and <http://shopkinibikini.com/>, and still make the same false claims about the origin of the Miami knit dress, which is as a knock-off of the WORK.

This activity is actionable under federal law and causes you to be liable to Hawaiian Delights, Hawaiian Delights Crochet Bikinis, <http://www.eve-lynn.com>, formerly known as <http://www.hawaiidelights>, and the author of the WORK, "Eve-Lynne Miyasaki" and Margaret Eve-Lynne Miyasaki, in every country in which you advertise such products for sale. Please note that I am also sending a copy of this letter to your internet service provider.

This wholesale misappropriation of my copyright works has not been authorized by me and is an infringement of my exclusive rights as copyright owner. Because the infringement is flagrant, I believe that this is a very serious matter. I demand that you cease and desist from disseminating the material posted at the referenced web site immediately, including any hyperlinks to other locations where the information may available from all web sites and servers under your control.

In the circumstances I also demand that you immediately:

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web sites and servers under your control.

In the circumstances I also demand that you immediately:

- 1) remove all aforesaid infringing material from your Website(s), and notify me in writing that you have done so;
- 2) undertake in writing to desist from using any of my copyrighted work in futura without prior written authority from me.

I await to hear from you by no later than close of business on AUGUST 30, 2009, failing which equivalent letters will be sent to:

- * Your Web Host
- * Your Domain Registrar
- * Legal Support at Google and other Search Engines.

This is written without prejudice to my rights, all of which are hereby fully and expressly reserved.

Thank you for your anticipated cooperation. I can be reached at (415) 846-5913 should you have any questions.

Sincerely,

Margaret Eve-Lynne Miyasaki
Hawaiian Delights Crochet Bikinis.
<http://www.eve-lynn.com> (formerly <http://www.hawaiiandelights.com>)

— On Thu, 8/20/09, Eve Miyasaki <hawaiiandelights@yahoo.com> wrote:

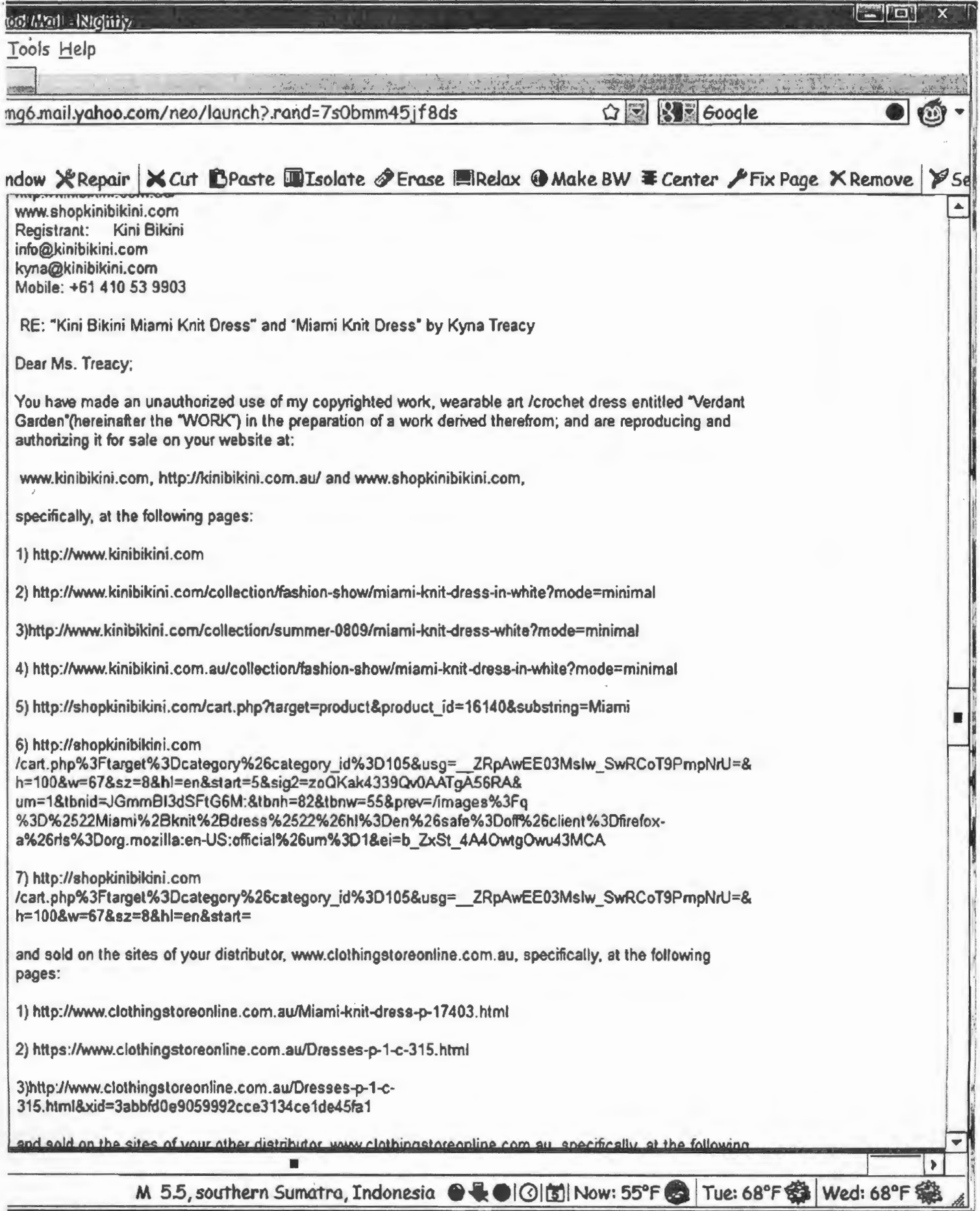
From: Eve Miyasaki <hawaiiandelights@yahoo.com>
Subject: Cease and Desist / "Miami Knit Dress" / "Verdant Garden"
To:
Cc: info@kinibikini.com, kyna@kinibikini.com
Date: Thursday, August 20, 2009, 4:50 PM

Margaret Eve-Lynne Miyasaki
2023 Folsom #6
San Francisco, CA 94110 USA

To:

Kyna Treacy
<http://www.kinibikini.com>
<http://kinibikini.com.au/>
www.shopkinibikini.com
Registrant: Kina Bikini

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and sold on the sites of your other distributor, www.clothingstoreonline.com.au, specifically, at the following pages:

- 1) <http://www.shopwiki.com.au>
- 2) <http://www.shopwiki.com.au/Donna+Karan+knit+dress>
- 3) http://www.shopwiki.com.au/_Miami+knit+dress

This item is a copy of my original wearable art /crochet dress, entitled "Verdant Garden" displayed on the following pages:

- 1) http://www.eve-lynne.com/RESORT_WEAR.html
- 2) <http://archives.starbulletin.com/2000/06/01/features/story2.html>

and formerly shown at:

- 1) http://www.hawaiidelights.com/RESORT_WEAR.html

My original WORK is presently offered for sale by my business, Margaret Eve-Lynne Miyasaki, "Eve-Lynne Miyasaki", dba Hawaiian Delights and Hawaiian Delights Crochet Bikinis, <http://www.eve-lynne.com>, and formerly known as <http://www.hawaiidelights.com>. I have reserved all rights in the WORK, first offered for sale as of 1998 and first published on the Internet at <http://www.hawaiidelights.com> as of 2000, and copyrighted therein. The ownership and development of the WORK has been under my sole control previous to those dates and at all times have been my original wearable art.

Your copy / copies are essentially identical to the WORK and clearly used the WORK as its basis. The WORK is protected under the Copyright Act and cannot be reproduced without my prior authorization. As you neither asked for nor received permission to use the WORK as the basis, nor to make or sell copies, you have willfully infringed my rights under 17 U.S.C. Section 101 et seq. Such authorization, if it had been sought, would not have been given.

Furthermore, you are intentionally trading on the goodwill and reputation of Hawaiian Delights, Hawaiian Delights Crochet Bikinis and the author of the WORK, "Eve-Lynne Miyasaki" and Margaret Eve-Lynne Miyasaki, by using copies that are confusingly similar to the WORK.

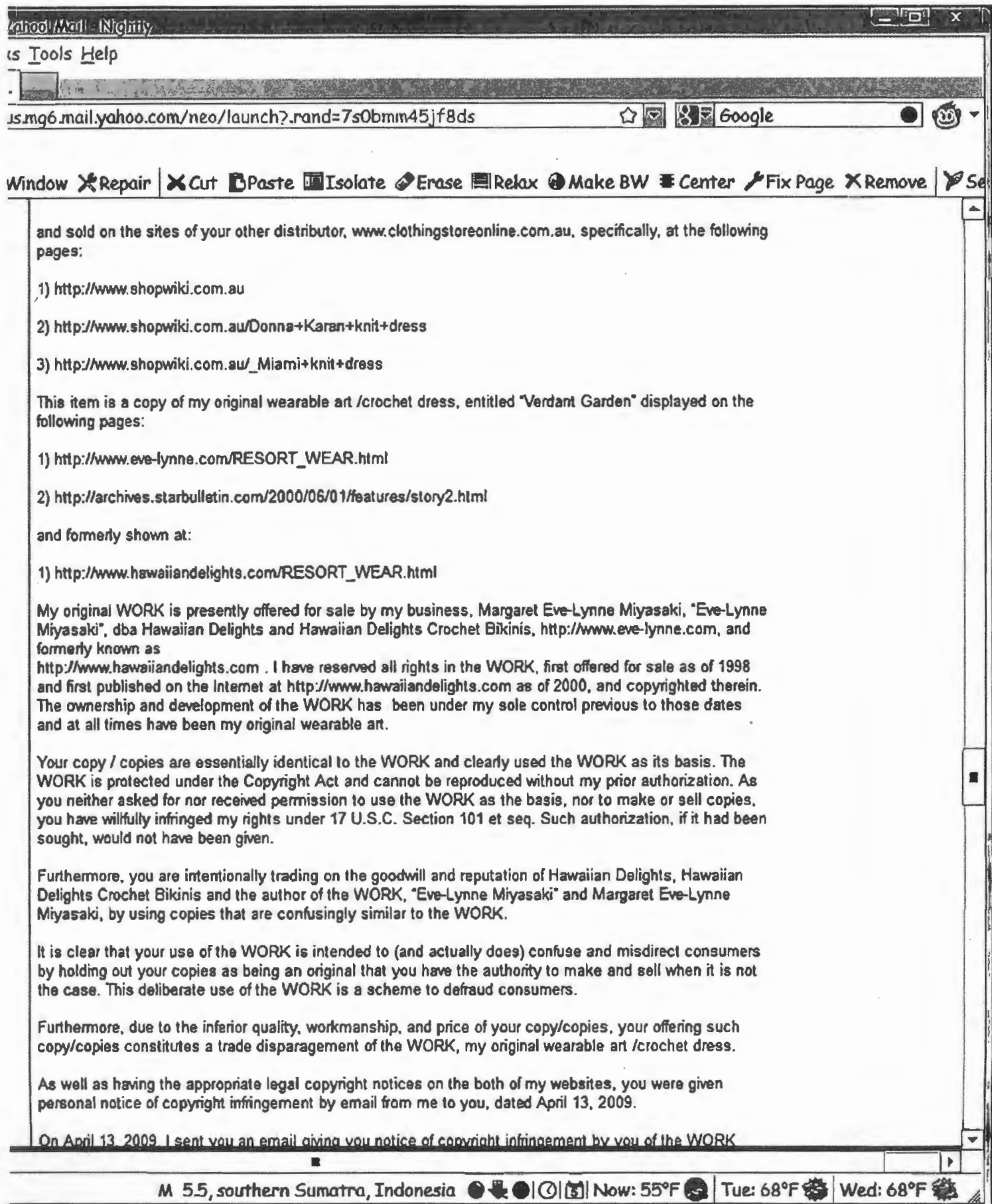
It is clear that your use of the WORK is intended to (and actually does) confuse and misdirect consumers by holding out your copies as being an original that you have the authority to make and sell when it is not the case. This deliberate use of the WORK is a scheme to defraud consumers.

Furthermore, due to the inferior quality, workmanship, and price of your copy/copies, your offering such copy/copies constitutes a trade disparagement of the WORK, my original wearable art /crochet dress.

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On April 13 2009 I sent you an email giving you notice of copyright infringement by you of the WORK

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However, since April 13, 2009, you have continued to this date to sell copies of the WORK, prices ranging from \$92.00 to \$200, have photos of the WORK on your website and hold it out to the public at large as being a "design" of yours. Further, you have continued to make it available for distribution and sale through various distributors.

Furthermore, your April 13, 2009 email to me that you'd just sold the Miami knit dress after noticing it in a Chinese supplier's warehouse is not what you told the Sunshine Coast Daily Online in your December 2008 interview, "Kyna's Knits." You told them that you had you had originally approached a Chinese factory on your own with an order for 60 items and that your orders to China "are now in the thousands, rather than dozens."

<http://www.thedaily.com.au/news/2008/dec/08/kyna-treacy-crocheted-bikini/>

Your activities are unlawful and constitute unfair competition, intentional copyright infringement, copyright dilution, false action of origin, trade disparagement and fraud. Furthermore, because you operate an interactive website in which customers can buy items directly from your company by filling out an online form, you can be sued anywhere that your website appears. If I have to file a lawsuit, it will be in the United States court in San Francisco, California.

I, therefore, demand that you immediately cease and desist from reproducing and selling your copies of the WORK, and that you deliver to me all unused, undistributed copies of the WORK, or destroy such copies immediately. Take down or cause to have taken down any and all photos of copies of the WORK on your sites, those of your distributors, and other sites where you have caused photos of copies of the WORK to be displayed. Submit a formal written retraction of your false statements regarding the origin of the copies of the WORK to the newspaper in which they were published, and on your websites and distributors websites where these statement appears. Your false statements appeared in these newspaper articles, which are that you're knock-off of Verdant Garden crochet dress, namely your Miami knit dress, is your original design:

1) The Sunshine Coast Daily
APN News & Media Ltd.
Article dated December 8, 2008
Source: <http://www.thedaily.com.au/news/2008/dec/08/kyna-treacy-crocheted-bikini/>

Article: Kyna's kinis

This article, "Kyna's kinis", in which you claim to be the designer of all garments in the kinibikini 2008 range, shown at <http://www.thedaily.com.au/news/2008/dec/08/kyna-treacy-crocheted-bikini/> links to a photo gallery at <http://www.thedaily.com.au/news/2008/dec/08/kyna-treacy-crocheted-bikini/>, which shows a photo of your Verdant Garden dress knock-off entitled, "Miami knit dress white- Kini Bikini. Photo: Contributed" as #3 in the gallery.

<http://www.thedaily.com.au/news/2008/dec/08/kyna-treacy-crocheted-bikini/>
"Kini Bikini"
Photo title: "Miami knit dress white- Kini Bikini. Photo: Contributed"
Sunshine Coast Daily, APN News & Media Ltd.

This webpage links to other webpages, <http://www.thedaily.com.au/photos/galleries/kini-bikini-models/7535/> and <http://www.thedaily.com.au/photos/galleries/kini-bikini-models/>, which are showing photos of

M 5.5, southern Sumatra, Indonesia Now: 55°F Tue: 68°F Wed: 68°F

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<http://www.thedaily.com.au/news/2008/dec/08/kyna-treacy-crocheted-bikini/>
 "Kini Bikini"
 Photo title: "Miami knit dress white- Kini Bikini. Photo: Contributed"
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<http://www.thedaily.com.au/photos/galleries/kini-bikini-models/7535/>
 "Kini Bikini"
 Photo title: "Miami knit dress white- Kini Bikini. Photo: Contributed"

<http://www.thedaily.com.au/photos/galleries/kini-bikini-models/>
 "Kini Bikini"
 Photo title: "Miami knit dress white- Kini Bikini. Photo: Contributed"

This article, "Kyna's kinis", reports that you made first contacted with a Chinese crochet factory and placed orders for crochet garments.

"Kyna had always liked the unique one piece style adored in the 1960s and 1970s and believed in her designs enough to contact a Chinese factory that could make them, although she had to take a chance with her personal savings to meet a minimum order of 60.

Her orders to China are now in the thousands, rather than dozens."

2) The Sunshine Coast Daily Online
 APN News & Media Ltd.
 Article dated December 9, 2008
 Source: <http://www.finda.com.au/story/2008/12/09/kynas-kinis-hit-hollywood-shelves/>

Article: Kyna's kinis hit Hollywood shelves

This article, "Kyna's kinis hit Hollywood shelves", in which you claim to be the designer of all garments in the kinibikini 2008 range, shown at the webpage, <http://www.finda.com.au/story/2008/12/09/kynas-kinis-hit-hollywood-shelves/>, has a link to the same photo gallery as the "Kyna's Kinis" article: <http://www.thedaily.com.au/photos/galleries/kini-bikini-models/7533/>, with a frame photo gallery, which includes a photo of your Verdant Garden dress knock-off entitled: "Miami knit dress white- Kini Bikini. Photo: Contributed" as photo number 3

And the webpage, <http://www.thedaily.com.au/photos/galleries/kini-bikini-models/7533/>, links to a different webpage, <http://www.thedaily.com.au/news/2008/dec/08/kyna-treacy-crocheted-bikini/>, showing a photo of your verdant Garden dress knock-off entitled: "Miami knit dress white- Kini Bikini. Photo: Contributed".

This article, "Kyna's kinis hit Hollywood shelves", reports that you began ordering crochet garments, including the WORK, in quantities of dozens, but are now ordering crochet garments in quantities of thousands, from the crochet factory, and further you intend to place more orders for crochet garments:

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Thank you for alerting me that this is your design, last year I did various crochet pieces for sale for my collection, this season my entire collection is lycra. I am not doing the Miami knit dress anymore- you have my word- the pics are still on my website but its last season stock for me. I bought it wholesale from a company in China zhangqingbao and then I noticed all these other american sites selling the same thing but with tacky glamour models in the pics and was not tasteful. I am no longer buying out of China I now get my lycra made in Australia and never intended to copy your design- I wish I knew about your brand earlier and I wouldn't have bought or sold any."

This email reply, which you sent me less than six months after your statements to the media were internationally published via the internet, shows that your conduct towards me is and always was in bad faith. Even to this very day you display your knock-offs of the WORK on your websites, <http://www.kinibikini.com> and <http://shopkinibikini.com/>, and still make the same false claims about the origin of the Miami knit dress, which is as a knock-off of the WORK.

This activity is actionable under federal law and causes you to be liable to Hawaiian Delights, Hawaiian Delights Crochet Bikinis, <http://www.eve-lynn.com>, formerly known as <http://www.hawaiidelights>, and the author of the WORK, "Eve-Lynne Miyasaki" and Margaret Eve-Lynne Miyasaki, in every country in which you advertise such products for sale. Please note that I am also sending a copy of this letter to your internet service provider.

This wholesale misappropriation of my copyright works has not been authorized by me and is an infringement of my exclusive rights as copyright owner. Because the infringement is flagrant, I believe that this is a very serious matter. I demand that you cease and desist from disseminating the material posted at the referenced web site immediately, including any hyperlinks to other locations where the information may available from all web sites and servers under your control.

In the circumstances I also demand that you immediately:

- 1) remove all aforesaid infringing material from your Website(s), and notify me in writing that you have done so;
- 2) undertake in writing to desist from using any of my copyrighted work in future without prior written authority from me.

I await to hear from you by no later than close of business on August 11, 2009, failing which equivalent letters will be sent to:

- * Your Web Host
- * Your Domain Registrar
- * Legal Support at Google and other Search Engines.

This is written without prejudice to my rights, all of which are hereby fully and expressly reserved.

Thank you for your anticipated cooperation. I can be reached at (415) 846-5913 should you have any questions.

Sincerely,

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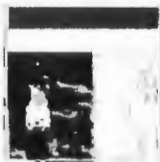
Sincerely,

Margaret Eve-Lynne Miyasaki
Hawaiian Delights Crochet Bikinis.
<http://www.eve-lynn.com> (formerly <http://www.hawaiiandelights.com>)

8 Attached files | 1.6MB



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gallery.gif



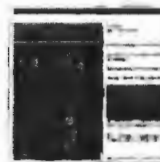
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Thursday, June 1, 2000



Rick Service photo
Rayra models "Verdant Garden," a dress hand-crocheted by Eve Miyasaki that sells for \$1,500.

Cool crochet makes a comeback

They're too pretty to have
been relegated to the
past forever

By Nadine Kam
Star-Bulletin

▲▲▲

ONCE a hippie chick, always a hippie chick. In the '60s and '70s, Eve Miyasaki lived in teeny weeny crochet bikinis she crafted by hand. Next thing you know, the whimsical designs went away with the smiley face, the fringed vest and hot pants. Such symbols of play had no place in the '80s, nicknamed the decade of greed.

Nevertheless, Miyasaki couldn't bear to part with her crochets. She packed them away in trunks knowing full well that the day of the padded suits would pass, and a new generation would grow up to appreciate the earthiness of crochets.

It took technology to drive us to this point of retreat. All that silicon and aluminum shine called for balance with the tactile and sublime.

And Miyasaki's suits, well, they've provided the inspiration for her Hawaiian Delights line of crocheted bikinis, hot pants, halters, micro mini skirts and bell-bottom pants. She'll be staging a fashion show at 9 p.m. Monday at Pipeline Cafe, 805 Polukaina St.

"It was frustrating that they disappeared," Miyasaki said. "They were really cool for dancing. You could be covered up, totally legal, yet you had all these tiny holes for ventilation."

For those who can't be there, she has a Web site <http://www.HawaiianDelights.com>, but she insists the garments must be touched to be believed.

"You wouldn't believe something could be so light and still give coverage," she said. "I build a bra into the construction of the top so a woman who has had children can still wear them."

EXHIBIT B



Rick Service photo

Model Heather wears a hand-crocheted "Levana" dress by Eve Miyasaki. The dress sells for \$1,500.

"They're also strong enough for active wear. I came from a surfing community, so these suits are designed for surfing, boogie-boarding. I have a friend who's a windsurfer and she ties it real tight but it lasted a year. Her (Lycra) OP suit lasted three months."

At the same time, the suits are "wonderfully feminine," Miyasaki said. "I like things to be feminine and pretty. I'm not comfortable wearing anything tomboyish."

She's even assigned her pieces such feminine names as "Moorbloem," "Bird of Paradise" and "Angel Wing."

Miyasaki said there was no market for crochets until about three months ago. That's when she started noticing Gucci and Chanel pieces, and a woman at Wildflowers suggested she revive some of her old designs.

Those designs have been revamped as well to appeal to '90s sensibilities. Thus the full-coverage bikini brief has given way to thongs, and whereas heavy threads were common in garments once imported from the Philippines, Miyasaki uses finer 6- to 8-gauge threads.

What's changed the most is the price of the garments. Miyasaki still makes all the pieces by hand, so prices reflect the artist's touch, starting at \$100 for a bikini bra, \$100 for a bikini bottom, \$300 for hot pants and up to \$1,500 for a dress.

In the '60s, Miyasaki would make and give love beads and bikinis to friends, or sell them for \$5 to \$8, basically the cost of the thread.

"Of course you can't charge your friends, but there was a communal feeling," she said. "Other people made things and gave them away, and with everyone giving things away, you never knew what you were going to get."

"It wouldn't work today."



Rick Service photo

FASHION SHOW

- **What:** Hawaiian Delights crochet apparel, with Capoeira Hawaii demonstration of dance martial art to live Afro-Brazilian music, prize giveaways and Hot Legs contest
- **When:** 9 p.m. Monday
- **Where:** Pipeline Cafe, 805 Polukaina St.
- **Cost:** \$5 cover
- **Call:** 589-1999



Index



Next



HAWAIIAN DELIGHTS CROCHET BIKINIS

<http://www.IVE-LYNNE.COM> formerly dba hawaiiandelights.com < <http://www.hawaiiandelights.com> > 1998-2000

TO CUSTOM ORDER CROCHET APPAREL PHONE: (808) 945-3494 HAWAII or (415) 846-5913 CALIFORNIA

RESORT WEAR



Photo: Eve Gruber
Model: Spivana

BASKET WEAVE CROP TOP \$300



BASKET WEAVE L/S TOP \$350



HALTER \$400 BELL-BOTTOM PANTS \$1000

SUN DRESSES



LAVANET A-LINE SHAPED HALTER DRESS
WITH HIGH NECKLINE AND SEXY LOW BACK,
AVAILABLE IN MINI OR ABOVE-KNEE LENGTH
\$1500

EXHIBIT C



VERDANT GARDEN A-LINE SHAPED HALTER DRESS WITH DECOLLETAGE NECKLINE AND LOW SEXY BACK. AVAILABLE IN MINI OR ABOVE-KNEE LENGTH.

\$1500

TOP ROW PHOTOS: I VI LYNNIE MIYASAKI, MODEL S; ABOVE: SYI VANA, TOP RIGHT: ANGEL FINE, BOTTOM RIGHT: DAHI
BOTTOM ROW PHOTOS: RICK BERNICO, MODEL S; BOTTOM LEFT: HEATHER, BOTTOM RIGHT: RAYNA



FROM LEFT TO RIGHT: 1) PHOTO: CLAYTON, MODEL DANI; 2) PHOTO: RICK BERNICO, MODEL: PATRICIA;
3) PHOTO: CLAYTON, MODEL: MAGGI; 4) PHOTO: CLAYTON, MODEL: NORIEN;
5) PHOTO: I VI LYNNIE MIYASAKI, MODEL: DANI; 6) PHOTO: CLAYTON, MODEL: DANI

CLICK ON SMALLER IMAGES FOR LARGER VIEW

HAWAIIAN DELIGHTS CROCHET BIKINIS

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BIKINI CROCHET



EVE'S WAY



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COLOR CHART



CLICK

HOW TO ORDER



Detail showing "Verdant Garden" design variants




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Kini Bikini



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Miami knit dress white- Kini Bikini. Photo: Contributed

EXHIBIT D



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Kyna's kinis

5:41p.m. 8th December 2008 | By Toby Walker

Some people spend a lifetime trying to break into Hollywood but fashion entrepreneur Kyna Treacy managed it in 10 months.

The sun was still baking Sydney's beachgoers when the Woombye raised 26 year old took her range of crocheted bikinis to the famous Bondi markets last January.

Kyna had always liked the unique one piece style adored in the 1960s and 1970s and believed in her designs enough to contact a Chinese factory that could make them, although she had to take a chance with her personal savings to meet a minimum order of 60.

She sold 16 on her first day at the markets and by May Kyna's Kini Bikini range was booked for a showcase at Sydney's 2008 Rosemount Fashion Week.

Having studied fashion production and graphic design with the aim of designing for a fashion magazine Kyna returned to modelling in Sydney for national campaigns like Yellowglen while she waited to crack the media job market.

Kini Bikinis was just her earner on the side.

Leading fashion houses like Versace having since released their own crocheted bikini range and with Kyna's creations already in the racks of Hollywood stores and about to pop up in some of Australia's top fashion magazines in the coming weeks it's fair to say this former Immanuel Lutheran College student is ahead of the game.

Her orders to China are now in the thousands, rather than dozens.

"It's blown me away because I didn't intend for it to be so popular or take off in the way it has," she said.

"I knew I liked them but I didn't know if everyone else would because crochet hasn't been around for quite a while and no one else was really doing it.

"When I turned 25 I started saving to put towards my first range because modelling is a short lived career.

"I haven't got a loan and am still modelling to support it all so each week I can buy more stock and stuff for the office."

And Sunshine Coast retailers dying to get their hands on Kyna's range shouldn't have to wait too long.

Kyna plans to visit some stores when she comes home to Woombye to spend Christmas with her parents Brett and Jenny.



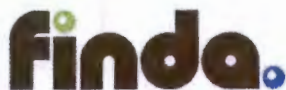
Woombye fashion entrepreneur Kyna Treacy has hit the big time with her crocheted bikinis.

Photo Gallery: Kini Bikini



[Enlarge photos](#) | [View thumbnails](#)

EXHIBIT E



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« Return to Lifestyle

Kyna's kinis hit Hollywood shelves

9th December 2008

AA larger | smaller Print

SOME people spend a lifetime trying to break into Hollywood but fashion entrepreneur Kyna Treacy managed it in 10 months.

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[Visit a photo gallery here](#)

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Kyna plans to visit some stores when she comes home to Woombye to spend Christmas with her parents Brett and Jenny.



A model wears one of Kyna Treacy's original crocheted Kini Bikini.

Contributed

EXHIBIT F



EXHIBIT G

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Store Window

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All Designers
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 Femina
 Fine Cloth
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 Ivory Skies
 Jo Jo Ivory
Kini Bikini
 Leonard Street
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KINI BIKINI
MIAMI KNIT DRESS

Cotton elastane crochet dress, tie up adjustable back.

Can be worn as a halter or normal straps. Tight weave, not see through.

Cleavage area can be adjusted by tying in thread

Colours: Black, White, other colours available on request.

SIZING CHART

Size	6 & 8	10	12 & 14
Bust	84.5	87	92
Waist	64.5	67	72
Hip	94.5	97	102

Care instructions: All items are cotton elastane, and should be handwashed and dried flat.

Note: We carry small amounts of stock, most styles are made to order so please allow 10 days for delivery.

SEE OTHER PRODUCTS BY "KINI BIKINI"

\$92.00
including GST
& postage*

Size

Size Information

Colour

Quantity



**ADD TO
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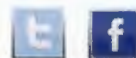
**Shoppers
Terms &
Conditions**

*All prices are in Australian dollars and include postage within Australia. Postage for overseas purchases is added

EXHIBIT H

<http://www.kinibikini.com/#!collection>

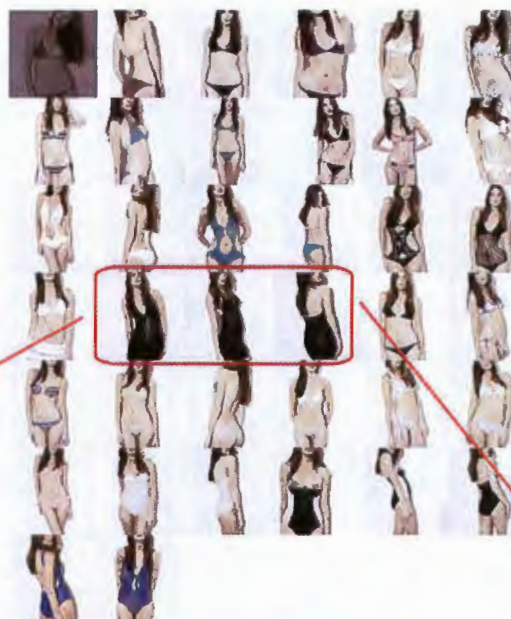
Kini Bikini Live For Summer xx



HOME ABOUT US COLLECTION PRESS STOCKISTS CONTACT US SHOP ALT PURCHASE FOR



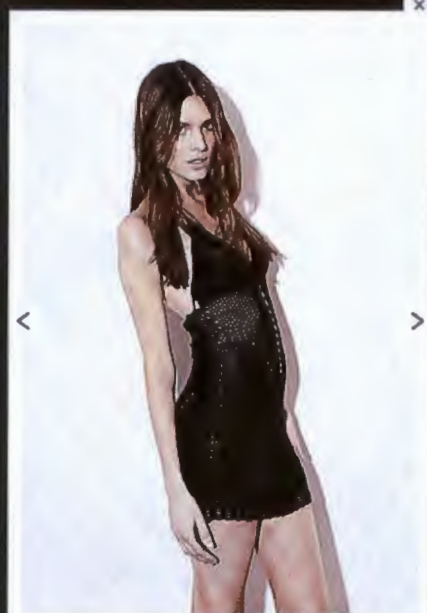
Summer 10-11



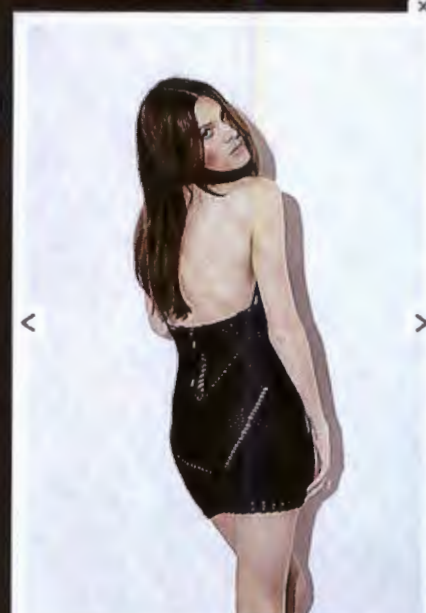
kinibikini SS10-11
lookbook



cancun dress



cancun dress side



cancun dress back

EXHIBIT 1